IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 818/2006
(Abdul Rashid Vs. State of Rajasthan)

Date of Order : 27/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Rakesh Arora for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

Issue notice for final disposal. Mr. Ashok Upadhyaya, public prosecutor accepts notice. With the consent of parties, this criminal miscellaneous petition under Section 482 Cr.P.C. is heard and decided at the admission stage.

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 20.4.2005 passed by Additional Chief Judicial Magistrate, Banswara (for short 'the trial court' hereinafter) in Criminal Case No. 334/2004 whereby Truck bearing No.RJ 09-G-2387 was directed to be released in favour of the petitioner on Supurdginama provided the petitioner furnishes a bank guarantee in the sum of Rs.1,50,000/- or a fixed deposit of the like amount. Aggrieved by the impugned order, the petitioner has filed the instant petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that the petitioner is not an accused in the case and the vehicle alleged to have been found carrying 27 cows, alleged to be in contravention of the provisions of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995, the condition imposed by the trial court of giving bank guarantee of Rs.1,50,000/- or a fixed deposit in the like amount is onerous and the petitioner being owner of the said vehicle and having the only source of his livelihood, would be deprived of the vehicle and the livelihood since the petitioner would not be in a position to give the bank guarantee or the fixed deposit of the like amount which is evident from the fact that even after order of release of vehicle dated 20.4.2005 till date, the petitioner could not manage the amount for furnishing the bank guarantee.

Having regard to the facts and circumstances of the case, in my view, directing the petitioner to give the bank guarantee appears to be a condition onerous and therefore, the ends of justice would be met if the condition of giving the bank guarantee or a fixed deposit in the like amount is modified by directing him to furnish solvent security.

In the result, the order impugned dated 20.4.2005 is modified to the extent that instead of giving bank guarantee or a fixed deposit in the like amount, the truck in question shall be released in favour of the petitioner on furnishing solvent security in the sum of Rs.3 lacs with one surety of like amount, to the satisfaction of the trial court.

With the above modification, the petition is disposed of.

(H.R.PANWAR),J.

rp